ment if he enter through an open door, and exempt one from prosecution for larceny who takes fruit exposed by a grocer before his store. The state should not be estopped from prosecuting one person by the negligence of another. Again, as said by the court in the instant case, following *Claiborne* v. *State, supra*: "To hold that the opening of a door or window which is closed but not fastened is sufficient evidence of breaking, but that the further opening of a door or window partly open, in order to gain an entrance is not sufficient evidence, is a useless refinement." Nor is the theory of implied invitation a satisfactory answer to the reasoning of the modern authorities. 12 MICH. L. REV. 231.

DIVORCE—RECOGNITION OF FOREIGN DECREE.—Defendant married plaintiff in Connecticut, but later left her and went to South Dakota, where he resided for two years, and where he obtained a decree of divorce from plaintiff; she was never in South Dakota, and did not appear in the divorce proceedings, notice of which was personally served on her at her home in Connecticut, in accordance with the law of South Dakota. She now sues defendant for divorce in Connecticut, and insists that the South Dakota divorce pleaded by him should not be recognized by the Connecticut court. *Held,* that the South Dakota divorce should be recognized on the ground of comity. *Gildersleeve* v. *Gildersleeve* (Conn. 1914) 92 Atl. 684.

This decision adds Connecticut to the list of states which give effect to divorce decrees rendered by other states upon constructive service of process upon the non-resident defendant, in spite of the decision of *Haddock* v. *Haddock* (1906) 201 U. S. 562, 50 L. ed. 867, which held that such decrees are not entitled to full faith and credit under the United States Constitution. Indeed, New York seems to be the only state which absolutely refuses to give any effect to such a decree. Since *Haddock* v. *Haddock* there have been very few decisions in other states which have declined to recognize the validity of the judgment so obtained, and all of them seem to be distinguishable from *Haddock* v. *Haddock*. For instance in *Carling* v. *Carling*, 78 N. J. Eq. 42, the court refused recognition to a South Dakota divorce on the ground that the person obtaining it was not bona fide domiciled in South Dakota at the time; a like reason resulted in the refusal of recognition to the foreign decree in *Blondin* v. *Brooks*, 83 Vt. 472, and *Matthews* v. *Matthews*, 139 Ga. 123 (followed in the decision without opinion of *Solomon* v. *Solomon*, 140 Ga. 379). These decisions of course come under the general rule that foreign judgments can always be attacked for lack of jurisdiction—if the plaintiff is not domiciled in the state of the forum, there is no jurisdiction. In two other cases (*Toncray* v. *Toncray*, 123 Tenn. 476, and *Gooch* v. *Gooch*, 38 Okla. 300) the courts, while recognizing that the foreign decree dissolved the marriage, refused to admit that it affected the non-resident defendant's rights in property situated at her domicile; thus in the *Toncray* case the Tennessee court, while admitting that the marriage was dissolved by a Virginia divorce obtained by the husband, gave to the wife, who had continued to be domiciled in Tennessee, alimony out of the husband's lands in Tennessee; so in the *Gooch* case the Oklahoma court, while recognizing the dissolution of the

marriage by a Missouri divorce obtained by the husband, refused to terminate the Oklahoma wife's rights in a statutory homestead. These cases too are easily distinguishable from the *Haddock* case—jurisdiction *in rem* over the marital relation (existing by virtue of the domicile of the plaintiff in the divorce suit) is quite different from jurisdiction over the absent defendant's interest in lands lying in a foreign state. For cases and statute opposed to *Haddock* v. *Haddock,* see 11 MICH. L. REV. 508.

EVIDENCE—IMPEACHING ONE'S OWN WITNESS.—In a prosecution for murder the state introduced witnesses identifying the accused as the murderer. On cross-examination they testified that they could not identify him, and the state was then permitted to contradict them by calling another witness and proving by him that they had identified the defendant as the murderer both at the station house and at the coroner's court. *Held,* (Miller and Cardozo, JJ. dissenting) that this was reversible error. *People* v. *De Martini,* (N. Y. 1914), 107 N. E. 501.

The court rests its decision upon the generally accepted rule that a party who calls a witness voluntarily cannot impeach him by calling another witness to prove that on a prior occasion the testifying witness has made contradictory statements. The reason for the rule being that "a party guarantees his witness' credibility" and holds him out as "worthy of belief." *Hurley* v. *State,* 46 Ohio St. 320; *Howard* v. *State,* 32 Ind. 478; *Becker* v. *Koch,* 104 N. Y. 394; *Johnson* v. *Leggett,* 28 Kan. 591; *Babcock* v. *People,* 13 Col. 515; *Warren* v. *Gabriel,* 51 Ala. 235. Nor does the fact that the witness is an adverse party warrant a departure from the rule. *Chandler* v. *Freeman,* 50 Mo. 239; *Helms* v. *Green,* 105 N. C. 251. Where, as in Vermont, the law requires the state to produce all the witnesses it can find, or in litigation involving the execution of a will or deed, where the attesting and subscribing witnesses must be called if possible, it is held that a party may impeach his own witnesses, because he is compelled by law to call them and so does not guarantee their credibility. *State* v. *Slack,* 69 Vt. 486; *Thornton's Executors* v. *Thornton's Heirs,* 39 Vt. 122; *Brown* v. *Bellows,* 4 Pick. (Mass.) 179; *Hildreth* v. *Aldrich,* 15 R. I. 163; *Morris* v. *Guffey,* 188 Pa. St. 534, 41 Atl. 731. The good sense of the rule as announced in the principal case has been much questioned. Professor WIGMORE believes "there never was any sound reason for the rule, and even if there had been, it is no longer to be tolerated as an impediment to the ascertainment of truth by the most direct and certain methods." See also 11 AMERICAN LAW REV. 261-265. The argument that a party guarantees the credibility of his witnesses has little or no force when applied to criminal cases, for the state's witnesses are often hostile, and no choice can be exercised in their selection. Moreover in criminal cases the public prosecutor in theory represents both sides and the state is as much interested in the acquittal of the accused as in his conviction. The decision in the principal case indicates that in the absence of statutory provision there is no relief from the common law rule. In England and many states of this country statutes have been passed allowing one to contradict his own